

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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MARIO E. CASTRO,

Plaintiff,

-against-

ORDER
22-CV-6340 (JS) (JMW)

NEWREZ, LLC, et al.,

Defendants.

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APPEARANCES

For Plaintiff: Mario E. Castro, Pro Se
419 West Hills Road
Melville, New York 11747

For Defendant: No appearances.

SEYBERT, District Judge:

On October 13, 2022, Plaintiff Mario E. Castro ("Plaintiff") commenced this action pursuant to the Fair Credit Reporting Act, 15 U.S.C. § 1681, filing a Complaint he purports to be verified.¹ (See ECF No. 1.) In doing so, he requests permission to proceed without prepaying the required filing fee. (See Motion for Leave to Proceed in forma pauperis ("IFP Motion"), ECF No. 2.) For the reasons that follow, the IFP Motion is denied without prejudice to renew.

¹ The Complaint lacks Plaintiff's sworn statement, made under penalty of perjury, that he has reviewed the Complaint and that, based upon his personal knowledge, the allegations therein are true. Compare Bank of Baroda, N.Y. Branch v. Kejriwal Newsprint Mills, LLC, No. 21-CV-6982, 2022 WL 3755270, at *2 (S.D.N.Y. Aug. 30, 2022).

Pursuant to 28 U.S.C. § 1914(a), "The clerk of each district court shall require the parties instituting any civil action, suit or proceeding in such court, whether by original process, removal or otherwise, to pay a filing fee of \$350"² Further, pursuant to Local Civil Rule 1.7(a), "The Clerk shall not be required to render any service for which a fee is prescribed by statute or by the Judicial Conference of the United States unless the fee for the particular service is paid to the Clerk in advance or the Court orders otherwise." See also Local Civil Rule 1.7, Committee Note ("Local Civil Rule 1.7(a) serves a useful purpose in light of 28 U.S.C. § 1914(c), which provides that '[e]ach district court by rule or standing order may require advance payments of fees.'").

In seeking to proceed IFP, Plaintiff submitted the Administrative Office's Short Form application in "Amended Format" (hereafter, the "IFP Short Form"). (See IFP Motion, ECF No. 2, at 1 (form header).) In completing said IFP Short Form, Petitioner: has not indicated whether he received any income (see IFP Motion at 1 (response to Question No. 3(a)-(f))); indicates revenues are "n/a" (see IFP Motion at 2); also states "n/a" in response to the query about the amount of money he has in cash, checking, or saving

² The District Court's Miscellaneous Fee Schedule adds a \$52.00 "administrative fee" for filing any civil action in the district court. Thus, this Court collects a \$402.00 filing fee.

accounts (see IFP Motion at 4 (response to Question No. 4)); and, likewise states "n/a" in response to the inquiry about regular monthly expenses (see id. (response to Question No. 5)) and in response to the inquiry about debts or financial obligations (see id. (response to Question No. 6)). The Court presumes "n/a" means "Not Applicable". However, in determining whether to grant an IFP Motion, inquiry about these financial matters is very applicable. Thus, in the absence of any information, the Court cannot assess whether Plaintiff is entitled to proceed IFP. Therefore, it declines to enter an order relieving Plaintiff of his obligation to prepay the required filing fee. As a result, at this time, no further action shall be taken in this case.

Accordingly, **IT IS HEREBY ORDERED:**

- (A) Plaintiff's IFP Motion is DENIED without prejudice to renew in accordance with the instructions herein;
- (B) If Plaintiff intends to proceed with this action, by no later than 14 days from the date of this Order, Plaintiff is to either:
 - (1) Pay the full filing fee of \$402.00; or
 - (2) Submit the IFP Long Form for the Court's consideration.

Plaintiff is ON NOTICE: Failure to timely pay the required filing fee **or** submit the IFP Long Form **will** result in this action being dismissed without prejudice and without further notice.

IT IS FURTHER ORDERED that the Clerk of Court is directed to mail a copy of this Order to the pro se Plaintiff at his address of record, together with the IFP Long Form; and

IT IS FURTHER ORDERED that pursuant to 28 U.S.C. § 1915(a)(3), the Court certifies that any appeal from this Order would not be in good faith and therefore IFP status is DENIED for the purpose of any appeal. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: October 21, 2022
Central Islip, New York